

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ANDREW RAMSEY, ID #13431-076,	§	
	§	
Petitioner/Defendant,	§	
	§	
v.	§	Civil Action No. <b>3:05-CV-0357-L</b>
	§	No. 3:00-CR-0389-L-01
UNITED STATES OF AMERICA,	§	
	§	
Respondent/Plaintiff.	§	

**ORDER**

Before the court are: (1) Ramsey's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody, filed February 22, 2005, and (2) Ramsey's Motion for Immediate Release due to Mootness of Section 2255 Petition Being Held Without Reason, filed July 26, 2007. The court referred the motion to vacate to United States Magistrate Judge Irma Ramirez on February 22, 2005, and she entered her findings, conclusions and recommendations on July 26, 2007. After considering the magistrate judge's findings and recommendations, the motions, response, reply, record, and applicable law, the court **denies** Ramsey's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody and **denies as moot** Ramsey's Motion for Immediate Release due to Mootness of Section 2255 Petition Being Held Without Reason.

**I. Motion to Vacate**

Movant Andrew Ramsey ("Ramsey" or "movant") pleaded guilty to one count of the indictment against him in the underlying criminal case on March 6, 2002. Before accepting the plea, the court questioned movant as to the voluntariness of his plea. Ramsey was sentenced to 97 months

imprisonment by the court on February 18, 2003, and the court entered judgment on February 24, 2003.

Ramsey filed the motion to vacate on February 22, 2005. His motion puts forth seven separate arguments seeking relief from his sentence. The magistrate judge found that the first six claims were waived by movant when he entered his guilty plea in the criminal case. After considering whether there was evidence of coercion, unfulfilled promises, or ineffective assistance of counsel, the magistrate judge concluded that Ramsey's guilty plea was entered into knowingly and voluntarily, and therefore his first six claims were waived. As to his seventh claim, that he had ineffective assistance of counsel at his sentencing, the magistrate judge found that his attorney had raised the arguments noted by movant at sentencing, but that the attorney's objections were overruled. Therefore, the magistrate judge recommended that the motion to vacate be denied. No objections to the magistrate judge's findings and recommendations were filed.

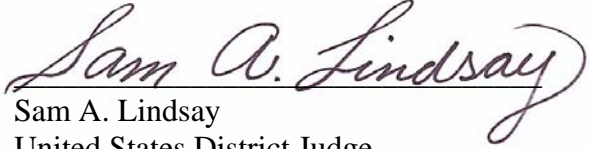
The court has reviewed the magistrate judge's findings and recommendations, the record, and the applicable law, and determines that the findings and recommendations are correct and are therefore **accepted** as those of the court. The court **denies** Ramsey's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.

## **II. Motion for Immediate Release**

Ramsey has also filed a motion for immediate release, arguing that the court should grant him a three-level departure from his sentence pending a decision on his motion to vacate. Because the court has now considered and ruled on the motion to vacate, and has denied the relief he sought,

the court **denies as moot** Ramsey's Motion for Immediate Release due to Mootness of Section 2255  
Petition Being Held Without Reason.

**It is so ordered** this 22nd day of August, 2007.

  
Sam A. Lindsay  
United States District Judge